



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 18956030

Date: JUL. 11, 2022

Appeal of Los Angeles, California Field Office Decision

Form I-212, Application for Permission to Reapply for Admission

The Applicant, a native and citizen of Guatemala, was found inadmissible under section 212(a)(9)(C)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i)(II), for having been ordered removed and then entering or attempting to enter the United States without being admitted. Under section 212(a)(9)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(C)(ii), permission to reapply for readmission to the United States is an exception to this inadmissibility, which U.S. Citizenship and Immigration Services (USCIS) may grant in the exercise of discretion.

The Director of the Los Angeles, California Field Office denied the Applicant's Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, concluding that the Applicant was statutorily ineligible for relief because she had not remained outside the United States for 10 years since her last departure.<sup>1</sup> The matter is now before us on appeal.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 C.F.R. § 1361. Upon *de novo* review, we will dismiss the matter as moot.

## **I. LAW**

Under section 212(a)(9)(C)(i)(II) of the Act, any noncitizen who is ordered removed and subsequently enters or attempts to enter the United States without being admitted is inadmissible. Under section 212(a)(9)(C)(ii) of the Act, a noncitizen may seek an exception to this ground of inadmissibility if at least 10 years have passed since they last departed the United States.

Section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i), states that any noncitizen who has been previously ordered removed as an arriving alien, and who seeks admission again within five years of the date of that removal (or within 20 years in the case of a second or subsequent removal) is inadmissible. Under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii), a noncitizen

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<sup>1</sup> The Director found that the Applicant attempted to enter the United States without inspection in 2005. We withdraw this finding, as it is unsupported by the record, which indicates that the Applicant has not attempted to enter the United States since her second removal in 1998.

may seek an exception to this ground of inadmissibility, which USCIS may grant in the exercise of discretion.

## II. ANALYSIS

The record reflects that the U.S. Department of State (DOS) found the Applicant inadmissible under section 212(a)(9)(C)(i)(II) of the Act. When the Applicant filed Form I-212, the Director found her statutorily ineligible for an exception to this inadmissibility under section 212(a)(9)(C)(ii) of the Act. However, the record establishes that after submission of the instant appeal, DOS removed its section 212(a)(9)(C)(i)(II) inadmissibility finding.<sup>2</sup>

Furthermore, while the record indicates that the Applicant was formerly inadmissible under section 212(a)(9)(A)(i) of the Act, in the case of a second or subsequent removal, this ground of inadmissibility only applies if the noncitizen is seeking admission within 20 years of their last removal. The record indicates that the Applicant was last removed from the United States in 1998 and has not entered the United States since that time. Therefore, as of the time the underlying application was filed, over 20 years had passed since the Applicant's last removal, and the Applicant was no longer inadmissible under this section of the Act.

Because the Applicant is not inadmissible under sections 212(a)(9)(A) or (C) of the Act, the Form I-212 is unnecessary. We will dismiss the appeal as moot.

**ORDER:** The appeal is dismissed.

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<sup>2</sup> It is noted that DOS also entered a new ground of inadmissibility, finding the Applicant inadmissible under section 212(a)(6)(C) for fraud or willful misrepresentation. However, as this is not within the scope of Form I-212, we will not address the matter further.